

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:13-cv-00243-MR
(CRIMINAL CASE NO. 1:07-cr-00032-MR-2)**

KENYAR ANDRAKIOS GLOVER,)
)
Petitioner,)
)
vs.) **O R D E R**
)
UNITED STATES OF AMERICA,)
)
Respondent.)
)

THIS MATTER is before the Court on the Petitioner's Petition for Relief under 28 U.S.C. § 2241; Alternative Petition for Writ of *Coram Nobis*; Alternative Petitioner for a Writ of *Audita Querela* [Doc. 1].

On May 14, 2015, the United States Probation Office filed a Supplemental Presentence Report (PSR), recommending that the Petitioner receive a sentence reduction pursuant to Guideline Amendment 780. [Criminal Case No. 1:07-cr-00032-MR-2 (CR), Doc. 314]. The Petitioner, through counsel, immediately filed a response to the PSR, agreeing that a sentence reduction was warranted. [CR Doc. 316]. On May 18, 2015, the Government filed a response, also agreeing to a sentence reduction. [CR Doc. 319]. The Government filed a corrected response on May 19, 2015.

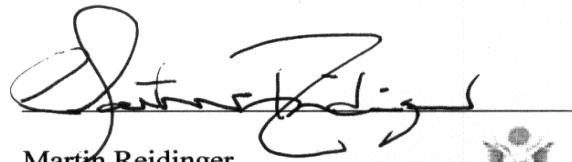
[CR Doc. 320]. On _____, 2015, the Court granted the Petitioner relief pursuant to 18 U.S.C. § 3582 and reduced his sentence to time served. [CR Doc. __]. The Petitioner has been released from confinement and has begun his five-year term of supervised release imposed as a part of his original sentence. [See CR Doc. 162 at 3].

By the present motion, the Petitioner seeks resentencing without the application of the mandatory minimum resulting from the filing of a 21 U.S.C. § 851 Information in his criminal case. [See CR Doc. 54]. As his basis for seeking such relief, the Petitioner contends that his underlying North Carolina drug trafficking conviction is not a predicate “felony drug offense,” as defined by 21 U.S.C. § 802(44), citing United States v. Simmons, 649 F.3d 237 (4th Cir. 2011) (en banc). [Doc. 3 at 3-14]. The Government has filed a response supporting the Petitioner’s contention. [Doc. 6]. The Petitioner, however, already has been released from his term of imprisonment, and any reduction to which he might have been entitled without the § 851 enhancement would have no effect on the length of his term of supervised release. Accordingly, the Petitioner’s petition is moot and shall be denied as moot.

IT IS, THEREFORE, ORDERED that the Petitioner’s Petition [Doc. 1] is **DENIED AS MOOT**.

The Clerk of Court is respectfully directed to close this civil case.

IT IS SO ORDERED.



Martin Reidinger
United States District Judge

